

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2016-384-S – ORDER NO. 2018-\_\_  
JUNE \_\_, 2018

IN RE:

Application of Moore Sewer, Incorporated for )  
Adjustment of Rates, Terms and Modification to )  
Certain Terms and Conditions for the Provision )  
of Collection-Only Sewer Service )  
\_\_\_\_\_ )

**ORDER APPROVING  
ADJUSTMENT IN RATES AND  
CHARGES AND  
MODIFICATION OF TERMS  
AND CONDITIONS**

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Application of Moore Sewer, Incorporated (“Moore”, the “Company”, or “Applicant”) for an increase in rates and charges for the provision of sewer service and the modification of certain terms and conditions related to the provision of such service (“Application”). Pursuant to S.C. Code Ann. § 58-5-240 (2015) and S.C. Code Ann. Regs. 103-512.4.A, the Applicant filed its Notice of Intent on November 15, 2016 and subsequently its Application on December 20, 2017, with a test year ending December 31, 2016 (“Test Year”).

By letter dated January 3, 2018, the Commission’s Docketing Department instructed Moore to publish a prepared Notice of Filing and Hearing and Pre-file Testimony Deadlines, one time, in newspapers of general circulation and provide a Proof of Publication on or before February 8, 2018. The January 3, 2018 letter also instructed Moore to notify its customers via bill inserts and provide certification of the notice to the Commission on or before February 8, 2018. On January 8, 2018, Moore requested revisions to the Notice of Filing dates. On January

9, 2018, the Commission granted Moore's request and instructed Moore to publish the notice on or before February 1, 2018 and provide a Proof of Publication on or before February 22, 2018. On January 24, 2018 the Company filed a Revised Notice of Hearing along with a Revised Exhibit A reflecting the Company's proposed schedule of rates and charges.<sup>1</sup> On February 23, 2018, the Company filed an Affidavit of Publication for the Notice of Filing and Hearing from The Spartanburg Herald-Journal and Certificate of Service demonstrating that the Notice of Filing and Hearing and Pre-file Testimony Deadlines had been duly published and provided letters certifying that it had complied with the instructions of the Commission's Docket Department.

On February 13, 2018, the Commission received the first requests for a night hearing from several Moore customers.<sup>2</sup> On March 7, 2018 the Commission's Docket Department issued a Notice of Public Night Hearing, in which the Commission scheduled the Public Night Hearing ("Night Hearing") for May 3, 2018, at 6:00 p.m., to occur at the Spartanburg County Council Chambers, 366 N. Church Street, Spartanburg, South Carolina. Also on March 7, 2018, the Commission's Docket Department instructed Moore to publish a prepared Notice of Public Night Hearing, by U.S. Mail, to each customer and provide a Proof of Publication on or before April 3, 2018.<sup>3</sup> On April 6, 2018, Moore filed an affidavit of mailing and Notice of the Public Night Hearing and Certificate of Service demonstrating that the Notice of Public Night Hearing

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<sup>1</sup> In the accompanying filing letter, the Company indicated that the only change to Exhibit A was the addition of a Proposed Commercial Rate. However, the Revised Exhibit A failed to include the same Notice of Disconnect Fee that the original Exhibit A included. Therefore, notice was not provided regarding any increase to the Notice of Disconnect Fee.

<sup>2</sup> Subsequent requests were also received, with approximately 33 customers requesting a night hearing in Spartanburg.

<sup>3</sup> The Commission's Docket Department later changed the notice date to April 10, 2018.

had been duly published and certifying that it had complied with the instructions of the Commission's Docket Department.

As reflected in the Revised Notice of Filing and Hearing and Pre-file Testimony Deadlines, the Company proposed new monthly sewer service rates for its service territory consisting of the Linville Hills and Madera Village subdivisions. By its Application, the rate sought by the Company would permit it the opportunity to earn an additional \$133,142.40 in annual revenues.

No party filed a petition to intervene in this matter. Pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2015), the South Carolina Office of Regulatory Staff ("ORS") is a party of record in this proceeding.<sup>4</sup>

## **II. THE HEARING AND TESTIMONY RECEIVED FROM THE PARTIES AND PUBLIC WITNESSES**

On April 12, 2018, the Company filed with the Commission the Direct Testimony and Exhibits from Janet Teichman in support of its Application. ORS filed the Direct Testimony and Exhibits of its witnesses Daniel F. Sullivan and Anthony M. Sandonato with the Commission on April 27, 2018. The Company filed Rebuttal Testimony from its witness Teichman on May 7, 2018. ORS filed Surrebuttal Testimony and Exhibits from witness Sullivan and Surrebuttal Testimony from witness Sandonato on May 15, 2018.

On May 3, 2018, the Commission held a Night Hearing in Spartanburg, South Carolina. The sign-in sheets for the Night Hearing were offered into the record as Hearing Exhibit 1. A total of fourteen (14) customers of Moore provided testimony at the Night Hearing. The public witnesses voiced general objections to the amount of the requested increase in rates. Public

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<sup>4</sup> Moore and ORS are referred to herein as the "Parties."

witnesses Teresa Roper and Elias Marzouka testified regarding their bills from Spartanburg Water System, which were placed into the record.<sup>5</sup> Public witness Michael Hollis did not testify as he stated his comments were already addressed by another customer, but Mr. Hollis offered his Moore sewer bill as evidence.<sup>6</sup>

The public merits hearing was held at the Commission's hearing room on May 22, 2018, at 10:30 a.m. to receive testimony from the Parties and any public witnesses. The Honorable Swain Whitfield, Chairman of the Commission, presided. Moore was represented by John J. Pringle, Jr, Esquire, and ORS was represented by Jenny Pittman, Esquire and Lessie Hammonds, Esquire. No public witnesses appeared at the merits hearing.

Moore witness Teichman, was sworn in and had her pre-filed Direct and Rebuttal Testimonies entered into the record as if given orally from the stand.<sup>7</sup> Witness Teichman answered a series of questions from her attorney regarding her testimonies and was made available for cross-examination by ORS and for examination by the Commission.

Mrs. Teichman is one of two shareholders of Moore, the other being her husband William Teichman.<sup>8</sup> Witness Teichman testified that she is responsible for the day-to-day operations of Moore, handling various tasks related to billing and field work.<sup>9</sup> Witness Teichman testified about her years of experience in working with sewer utilities.<sup>10</sup> Witness Teichman testified that

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<sup>5</sup> Ms. Roper's bill is Hearing Exhibit 2 and Mr. Marzouka's bill is Hearing Exhibit 3. These bills include sewer treatment charges which are not billed by Moore.

<sup>6</sup> Mr. Hollis's bill from Moore is Hearing Exhibit 4.

<sup>7</sup> Witness Teichman also made numerous corrections to her Direct Testimony and one change to her Rebuttal Testimony.

<sup>8</sup> Teichman Direct, p. 1, ll. 5-9.

<sup>9</sup> *Id.*

<sup>10</sup> Teichman Direct, p. 1, l. 11 – p. 2, l-12.

the purpose of her pre-filed Direct Testimony was to provide an overview of the Company and its operations and show why the Company is in need of the increase it requested to its monthly sewer service charge.<sup>11</sup> Witness Teichman testified that the last time Moore appeared before the Commission for a rate increase was 2003.<sup>12</sup> According to witness Teichman, Moore provides collection-only services to 469 residential customers in Spartanburg County, with 281 customers in the Linville Hills subdivision and 188 customers in the Madera Village subdivision.<sup>13</sup> Witness Teichman testified that there are a few vacant lots in the Madera Village subdivision and no lots available in the Linville Hills subdivision; however there are about 58 residents in Linville Hills that utilize septic tanks and drain fields. Therefore, those 58 residents do not currently receive service from Moore.<sup>14</sup> Witness Teichman testified that her responsibilities include management and oversight of Moore's operations, managing customers' accounts, billing and collection services, customer service issues, and contracting with third-party vendors and contractors.<sup>15</sup> Witness Teichman testified that William Teichman assists with field and diagnostic work, along with managerial support.<sup>16</sup>

Witness Teichman testified that Moore is currently authorized to charge a flat rate of \$20.88 for sewer collection under Commission Order 2003-477, and that it has been more than 14 years since Moore has requested a rate increase.<sup>17</sup> Witness Teichman testified that Moore's

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<sup>11</sup> Teichman Direct, p. 2, l. 23 – p. 3, l. 2.

<sup>12</sup> Teichman Direct, p. 3, ll. 1-2.

<sup>13</sup> Teichman Direct, p. 3, ll. 22-23.

<sup>14</sup> Teichman Direct, p. 4, ll. 3-7.

<sup>15</sup> Teichman Direct p. 2, ll. 14-18.

<sup>16</sup> Teichman Direct p. 2, ll. 18-21.

<sup>17</sup> Teichman Direct p. 4, ll. 9-12.

unadjusted total operating expenses have increased from \$83,437 to \$163,134.<sup>18</sup> Witness Teichman testified that she was not aware of any customer complaints, and that if any do arise she has a policy in place to remedy the situation quickly.<sup>19</sup> Witness Teichman testified that a letter from the South Carolina Department of Health and Environmental Control (“DHEC”) was filed in this Docket stating that Moore has a valid DHEC permit as required to operate the sewer collection systems.<sup>20</sup>

Witness Teichman testified regarding how Moore’s customers are billed for sewer treatment services. The Spartanburg Sanitary Sewer District (“SSSD”) bills Moore in bulk each month for the services provided to Linville Hills; Moore divides that amount by the number of active customers and includes the sewer treatment charge as a separate line item on the customers next bill. Customers in the Madera Village are billed directly by SSSD for sewer treatment charges and the sewer treatment charge is not reflected in the bills issued by Moore. Witness Teichman testified that during the Test Year the average sewer treatment charge per month for the customers in Linville Hills was \$6.27. Witness Teichman testified this amount can easily vary depending on various obstructions that influence the sewer flow in the collection system like grease and rags. Witness Teichman testified that these obstructions raise the volume of the wastewater to be treated. Witness Teichman testified to the challenges Moore faces regarding past-due charges and fees owed by its customers. Witness Teichman testified that S.C. Code Ann. Regs. 103-531.1 allows Moore to collect a deposit equal to two months estimated or actual bills, but by the time Moore disconnects service to the customer pursuant to S.C. Code

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<sup>18</sup> Teichman Direct p. 4, ll. 14-15.

<sup>19</sup> Teichman Direct p. 4, ll. 18-22.

<sup>20</sup> Teichman Direct p. 5, ll. 4-6.

Ann. Regs. 103-535.1, the customer has incurred three months of bills and fees which leaves Moore with amounts it is unable to collect from customers. The amount of unpaid debt by customers that moved out of their homes during the Test Year was \$7,686.82.<sup>21</sup> To rectify this discrepancy and due to Moore's history of non-paying customers, Witness Teichman testified that Moore is requesting to collect a flat customer deposit of \$250.00 from new customers and previously disconnected customers to ensure that Moore would not have to write off past-due charges.<sup>22</sup>

Witness Teichman testified that in 2017 Moore repaired several items on its system totaling \$6,450. Witness Teichman testified that Moore is "desperately in need of rate relief" as the Company's earnings are insufficient to continue providing quality service and to cover the repairs needed on the aging system. Witness Teichman testified that Moore is seeking a rate increase to recover revenues that allow the Company to maintain and upgrade the system.<sup>23</sup>

ORS presented a single panel consisting of two witnesses at the hearing, Daniel F. Sullivan and Anthony M. Sandonato. Both witnesses pre-filed Direct<sup>24</sup> and Surrebuttal testimonies. All ORS's witnesses pre-filed testimonies were read into the record and the

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<sup>21</sup> Teichman Direct p. 6, ll. 3-8.

<sup>22</sup> Teichman Direct p. 7, ll. 11-19.

<sup>23</sup> Teichman Direct p. 7, ll. 9-15.

<sup>24</sup> Witness Sullivan corrected his Direct Testimony from the stand to change Line 15 on Page 13 to read the rate base amount of \$177,799 not \$177,461. This correction was also filed with this Commission via letter dated May 25, 2018. This correction did not change witness Sullivan's recommendations or adjustments.

Exhibits, which were filed with and attached to the pre-filed Direct and Surrebuttal<sup>25</sup> testimonies, were offered into evidence and made a part of the record as Hearing Exhibits 6 through 8.<sup>26</sup>

In his pre-filed Direct Testimony, ORS witness Daniel F. Sullivan testified regarding his findings and recommendations resulting from ORS's examination of the Application filed by Moore.<sup>27</sup> According to witness Sullivan, ORS's examination of the Company's Application consisted of three major steps: attempting to verify that the operating experience, as reported by Moore in its Application, was supported by Moore's accounting books and records for the 12 months ending December 31, 2016; testing the underlying transactions in the books and records for the Test Year to ensure that the transactions were adequately supported, had a stated business purpose, were allowable for ratemaking purposes, and were properly recorded; and adjusting, as necessary, the revenues, expenditures, and capital investments to normalize the Company's operating experience and operating margin, in accordance with generally accepted regulatory principles and prior Commission orders.<sup>28</sup> Included with his pre-filed Direct Testimony, witness Sullivan provided a series of exhibits, attached to his pre-filed Direct Testimony and labeled, as "Audit Exhibit DFS-1" through "Audit Exhibit DFS-7," detailing ORS's computations and proposed adjustments to the Application.<sup>29</sup>

Witness Sullivan testified that ORS had difficulty verifying amounts in Moore's application to the Company's books and records. The books and records supported test year

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<sup>25</sup> ORS witness Sullivan filed exhibits with his direct and surrebuttal testimonies while ORS witness Sandonato filed exhibits only with his direct testimony.

<sup>26</sup> From the stand witness Sandonato corrected his Exhibit AMS-1, Page 1, Line Item 5 to reflect that the Company is in compliance with S.C. Code Ann. Regs. 103-531. This correction was also filed with this Commission via letter dated May 25, 2018. This correction was not material in nature.

<sup>27</sup> Sullivan Direct, p. 2, ll. 7-10.

<sup>28</sup> Sullivan Direct, p. 2, ll. 13-23.

<sup>29</sup> Hearing Exhibit 6.



revenues of \$154,105, yet the Company reported \$115,258 of revenue in its application. The application also failed to include a \$27 license fee expense that was included in the books and records. The Company reported \$6,021 of bad debt expense in its application, but it was not recorded in the books and records. Witness Sullivan testified that ORS's accounting and pro forma adjustments account for the correction and normalization of each of these test year amounts.<sup>30</sup>

Witness Sullivan's Exhibit DFS-2 detailed several adjustments made by ORS which were due to a lack of support<sup>31</sup> or incorrect categorization of expenses. Witness Sullivan testified that several expenses that were incorrectly categorized by Moore were recategorized by ORS during its review. ORS also made adjustments accordingly to allow Moore to recover expenses initially disallowed due to a lack of supporting documentation, but subsequently supported by the Company with valid, executed contracts.<sup>32</sup>

ORS witness Sandonato is employed by ORS as a Regulatory Analyst in the Utility Rates and Services Division.<sup>33</sup> In his pre-filed Direct Testimony, witness Sandonato testified regarding ORS' findings relative to his review of Moore's Application.<sup>34</sup> Specifically, witness Sandonato testified regarding Moore's compliance with Commission rules and regulations; ORS's adjustment to the test year ending December 31, 2016 revenues and revenues at Company's proposed rates; ORS's customer growth calculation; Moore's request to change certain non-recurring charges and tariff language; Moore's request to increase the Deposit and to waive part

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<sup>30</sup> Sullivan Direct p. 3, ll. 5-12.

<sup>31</sup> ORS requested contracts and documentation for various expenses during its review that Moore was unable to provide for the Test Year.

<sup>32</sup> See Late Filed Hearing Exhibit 5.

<sup>33</sup> Sandonato Direct, p. 1, ll. 11-14.

<sup>34</sup> Sandonato Direct, p. 2, ll. 2-6.

of S.C. Code Ann. Regs. 103-531.1(A); Moore's requested bad debt expense; ORS's review of work performed by outside vendors; Moore's performance bond requirements; Moore's compliance with the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts ("USOA"); ORS' recommendation and adjustments to reflect the impact of the Tax Act; and ORS' recommendations regarding rates.<sup>35</sup>

Witness Sandonato testified that Moore is a NARUC Class C wastewater utility according to wastewater revenues reported on its Application for the test year.<sup>36</sup> Witness Sandonato testified that Moore is in compliance with all Commission requirements and no complaints with ORS's Consumer Services Division from Moore's customers in the last three (3) years<sup>37</sup>. Witness Sandonato testified that based on ORS's comprehensive review of Moore's wastewater and miscellaneous revenue collections for the Test Year, ORS made a revenue adjustment of \$30,387.<sup>38</sup> Witness Sandonato testified Exhibit AMS-2<sup>39</sup> summarizes Moore's service revenues for the Test Year. ORS calculated adjusted Test Year operating revenues using Moore's current rates as approved by Commission Order 2003-477 and Moore's proposed rates as reflected in the Application, which totaled \$117,513.<sup>40</sup> For comparison purposes, Witness Sandonato testified that ORS calculated Moore's proposed revenue of \$253,260, not including customer growth into the revenue comparisons.<sup>41</sup> Witness Sandonato testified that ORS calculated Test Year miscellaneous revenues, as adjusted, of \$28,132 and for comparison

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<sup>35</sup> Sandonato Direct, p. 2, ll. 7-21.

<sup>36</sup> Sandonato Direct, p. 3, ll. 12-14.

<sup>37</sup> Sandonato Direct, p. 3, l. 21 – p. 4, l. 2.

<sup>38</sup> Sandonato Direct, p. 4, ll. 5-7, *see also* Hearing Exhibit 6, DFS-2.

<sup>39</sup> Hearing Exhibit 8.

<sup>40</sup> Sandonato Direct, p. 4, ll. 16-19.

<sup>41</sup> Sandonato Direct, p. 4, ll. 20-21.

purposes ORS calculated Moore's miscellaneous revenues at the proposed rates at \$29,061, which included the New Customer Set Up Fee, Late Fees, and the creation of a New Customer Connection Fee.<sup>42</sup> Witness Sandonato testified Exhibit AMS-3<sup>43</sup> provides a breakdown of the ORS calculation for Test Year miscellaneous revenues.<sup>44</sup> Witness Sandonato testified Exhibit AMS-4<sup>45</sup> calculates the customer growth to be approximately 2.1818% for Linville Hills, 0.5348% for Madera Village, and 1.5152% for Moore as a whole.<sup>46</sup>

Witness Sandonato testified ORS reviewed Moore's requested changes and additions to the Company's non-recurring charges<sup>47</sup> to increase the New Customer Set-Up Fee, establish a New Customer Connection Fee, establish a Damage/Tampering Charge and establish a Tap Fee.<sup>48</sup> Witness Sandonato testified that ORS does not object to Moore's request to waive certain portions of S.C. Code Ann. Regs. 103-531.1(A); however, Witness Sandonato testified the Deposit amount for new customers should be limited to an amount sufficient to secure the account for a three (3) month period. Exhibit AMS-5<sup>49</sup> details the methodology ORS supports to calculate the amount of the Deposit for new customers.<sup>50</sup> Witness Sandonato testified that ORS's calculation did not include the SSSD treatment charge, New Customer Connection Fee,

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<sup>42</sup> Sandonato Direct, p. 4, l. 22 – p. 5, l. 2.

<sup>43</sup> Hearing Exhibit 8.

<sup>44</sup> Sandonato Direct, p. 5, ll. 4-5.

<sup>45</sup> Hearing Exhibit 8.

<sup>46</sup> Sandonato Direct, p. 5, ll. 7-8.

<sup>47</sup> Increase New Customer Set-Up Fee from \$10 to \$20; establish a New Customer Connection Fee; Establish a Damage/Tampering Charge; and Establish a Tap Fee.

<sup>48</sup> Sandonato Direct, p. 5, ll. 11-19.

<sup>49</sup> Hearing Exhibit 8.

<sup>50</sup> Sandonato Direct, p. 6, ll. 18-23.

and New Customer Set-Up Fee.<sup>51</sup> Witness Sandonato also testified that new customers should be allowed to pay the Deposit in installment payments over a period no longer than three (3) months as large deposits can be burdensome for some customers.<sup>52</sup> Witness Sandonato recommended that Moore file updated terms, conditions and/or service regulations with the Commission which detail the Company's procedures related to non-recurring charges<sup>53</sup> as Moore's customers should be provided advanced notice of how and when the Company will apply such charges.<sup>54</sup>

Witness Sandonato testified that ORS was unable to verify Moore's bad debt expense of \$6,021, therefore ORS recommends that the bad debt expense be adjusted to \$2,181 which reflects 1.5% of operating revenues and a reasonable amount of bad debt expense for a wastewater utility.<sup>55</sup>

Witness Sandonato explained that Moore uses Operation Drains of the Upstate ("ODU") for all service repairs. To verify the work performed by ODU, ORS requested that Moore provide quotes from other vendors that provide similar services. Witness Sandonato testified that based on ORS's review of the work done by ODU and the quotes from other vendors, the costs invoiced by ODU were reasonable.<sup>56</sup>

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<sup>51</sup> Sandonato Direct, p. 6, ll. 24-26.

<sup>52</sup> Sandonato Direct, p. 7, ll. 3-5.

<sup>53</sup> The procedures that Moore plans to adopt that are not currently included in the tariff are: allowing new customers to pay the Deposit in installments, with an initial payment of \$100; waive the Deposit if the customer is the property owner; and waive the New Customer Connection Fee if the customer is the property owner.

<sup>54</sup> Sandonato Direct, p. 7, ll. 8-12.

<sup>55</sup> Sandonato Direct p. 7, l. 21 – p. 8, l. 2.

<sup>56</sup> Sandonato Direct, p. 8, ll. 5-13.

Moore's current performance bond on file with this Commission is for \$100,000; based on ORS's review of the expenses for the test year Witness Sandonato recommended the bond be increased to \$135,000.<sup>57</sup>

Witness Sandonato testified that ORS identified issues with the Company's books and records that place Moore out of compliance with the NARUC USOA.<sup>58</sup> Witness Sandonato testified that the Company has not recorded Accumulated Deferred Income Taxes ("ADIT") on the balance sheet contained in the Application.<sup>59</sup> According to witness Sandonato, based on ORS' review of the Company's balance sheet and tax return filings, ORS concluded the Company should have recorded a reserve to reflect the deferral of taxes.<sup>60</sup> Because the Company did not record ADIT, the Company is not in compliance with the NARUC USOA and 26 U.S. Code § 168(i)(9)-Normalization Rules.<sup>61</sup>

Regarding the impact of the Tax Cuts and Jobs Act ("Act"), witness Sandonato discussed Contributions in Aid of Construction ("CIAC") and applicable tax multipliers resulting from the new Act. The tax multiplier will allow the Company to continue to book the full amount of CIAC and directly pay for any tax costs. Witness Sandonato testified it is ORS' position this additional tax burden should be borne by the customer responsible for the additional costs. Witness Sandonato recommended Moore add language to its tariff to allow for a tax multiplier associated with tap fees and other CIAC.<sup>62</sup> Regarding revenue attributed to the Act,

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<sup>57</sup> Sandonato Direct, p. 8, ll. 16-22.

<sup>58</sup> Sandonato Direct, p. 9, l. 3.

<sup>59</sup> Sandonato Direct, p. 9, ll. 4-15.

<sup>60</sup> Sandonato Direct, p. 9, ll. 22-23.

<sup>61</sup> Sandonato Direct, p. 9, ll. 18-19.

<sup>62</sup> Sandonato Direct, p. 9, l. 24- p. 10, l. 7.

ORS calculated \$1,295 of additional revenue which the Company should be allowed to collect from customers due to the change in federal income tax rate.<sup>63</sup> Witness Sandonato testified that ORS recommended the Company establish ADIT, and revalue the ADIT to account for the new 21% federal income tax rate.<sup>64</sup>

Witness Sandonato testified with ORS's adjustments Moore is earning an operating margin of 0.15%.<sup>65</sup> Witness Sandonato explained the Company's rates as proposed in the Application, with ORS adjustments, would yield an operating margin of 36.13%.<sup>66</sup> ORS proposes a monthly rate of \$27.16, which would generate increased revenue of \$36,308 and an operating margin of 14.99%<sup>67</sup> for Moore.<sup>68</sup>

In her pre-filed Rebuttal Testimony, witness Teichman testified the Company contested ORS's adjustments to Rent Expense and Interest Expense. Witness Teichman testified Moore was not in agreement with ORS's adjustment reducing the rent expense from \$15,330 to \$3,720, and Witness Teichman explained her reasoning behind the Company's proposed rent expense by offering evidence of a commercial rental in close proximity to her personal residence, which is partially used as Moore's office. Witness Teichman testified Moore would be unable to rent just a portion of this commercial space, therefore she calculated the rent expense using the price for the entire space.<sup>69</sup>

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<sup>63</sup> Sandonato Direct, p. 10, l. 12 – p. 11, l. 1.

<sup>64</sup> Sandonato Direct, p. 11, ll. 11-12.

<sup>65</sup> Sandonato Direct, p. 11, ll. 15-16, *see also* Hearing Exhibit 6, DFS-1.

<sup>66</sup> Sandonato Direct, p. 11 ll. 15-18, *see also* Hearing Exhibit 6, DFS-1

<sup>67</sup> With the rate case expenses accepted by ORS, the operating margin would actually be 14.58%.

<sup>68</sup> Sandonato Direct, p. 11, ll. 21 – p. 12, l. 2, *see also* Hearing Exhibit 8, AMS 8 and AMS 9.

<sup>69</sup> Teichman Rebuttal p. 2, ll. 1-9.

Witness Teichman disagreed with ORS's adjustment to interest expense of \$0. Witness Teichman acknowledged witness Sullivan was correct in stating that no payments have been made on the two (2) notes payable totaling \$603,819 but explained Moore has not had the resources to make any payments.<sup>70</sup>

Witness Teichman testified Moore will add the language recommended by ORS witness Sandonato regarding the non-recurring charges, but instead of waiving the New Customer Fee if the customer is the property owner, Moore will charge all new customers the New Customer Fee.<sup>71</sup> Witness Teichman also testified Moore will adopt the recommendations in ORS witness Sandonato's testimony regarding ADIT and the impacts of the Tax Cuts and Jobs Act.<sup>72</sup>

Witness Teichman disagreed with the monthly rate proposed by ORS witness Sandonato in his Direct Testimony. Witness Teichman requested a new monthly rate of \$37.98<sup>73</sup> for Moore in her Rebuttal Testimony but corrected the rate to \$40.07 from the stand due to a miscalculation. Witness Teichman testified the additional rate relief is needed to maintain the system and perform necessary repairs for the benefit of Moore's customers.<sup>74</sup>

ORS witness Sullivan pre-filed Surrebuttal Testimony in which he responded to certain issues raised in the Rebuttal Testimony of witness Teichman.<sup>75</sup> In Witness Sullivan's Surrebuttal Testimony, he explained how ORS calculated Moore's rent expense. Moore utilizes only 254 square feet of the Teichman's personal residence and outdoor storage area. By comparing six (6)

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<sup>70</sup> Teichman Rebuttal p. 2, ll. 12-23.

<sup>71</sup> Teichman Rebuttal p. 3, ll. 3-10.

<sup>72</sup> Teichman Rebuttal, p. 3, l. 13.

<sup>73</sup> Moore originally requested a flat rat of \$45 in its application. *See* Application Exhibit A

<sup>74</sup> Teichman Rebuttal, p. 3, l. 17 – p. 4, l. 8.

<sup>75</sup> Sullivan Surrebuttal, p. 1, ll. 20-22.

comparable rentals available in the Moore/Spartanburg area, witness Sullivan calculated an average rental price of \$1.22 per square foot. ORS then multiplied the average rental price of \$1.22 per square foot by the square footage used by Moore to calculate a monthly rental expense of \$310 and a yearly rental expense of \$3,720.<sup>76</sup> Witness Sullivan explained to calculate a reasonable rent expense, the average rental price per square foot multiplied by the square footage used of the Teichman's residence should be used, not the total cost to rent an office that is significantly larger.<sup>77</sup>

In response to witness Teichman's Rebuttal Testimony regarding the Company's request for interest expense, witness Sullivan explained ORS requested documentation from Moore related to the shareholder note payable for \$41,510 and note payable to Operation Drains, Inc. ("ODI")<sup>78</sup> for \$562,309. ORS was not provided with a copy of the loan agreement or any documentation regarding the shareholder note payable but was told by Moore and the Company's accountant that no payments have been made on the loan and the loan was taken out to fund capital improvements.<sup>79</sup>

Regarding the note payable to ODI, Moore informed ORS that the note was used for various services including installation of elder valves, repairs, and costs required to close the lagoons. Witness Sullivan testified that according to the Company the note was also used to reimburse unpaid costs to maintain and repair the sewer system.<sup>80</sup> Witness Sullivan testified

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<sup>76</sup> Sullivan Surrebuttal, p. 2, l. 8 – p. 3, l. 2.

<sup>77</sup> Sullivan Surrebuttal, p. 3, ll. 4-18.

<sup>78</sup> Witness Teichman testified in her Direct Testimony that ODI is a company formally owned by William Teichman, and Moore contracted with ODI for services prior to contracting with ODU. *See* Teichman Direct, p. 1, l. 16 – p. 2, l. 2.

<sup>79</sup> Sullivan Surrebuttal, p. 4, ll. 9-14.

<sup>80</sup> Sullivan Surrebuttal, p. 4, ll. 9-21.



Moore provided a statement dated July 31, 2006 from ODI to Moore detailing charges for work performed from 2004 to 2006, as well as finance charges due to lack of payment. This statement<sup>81</sup> showed a total amount due of \$391,064, of which \$46,132 was billed as finance charges. The Company stated there was additional work performed by ODI but was unable to provide invoices for the additional work performed by ODI.<sup>82</sup> Witness Sullivan acknowledged ODI did perform various services for Moore. However, due to the lack of payments being made on the note, the lack of support for the total value of the note, and the inclusion of finance charges for nonpayment, it is ORS's position that the Company should not recover any expense from rate payers that the Company did not pay for nor should the Company recover interest expense from rate payers for loans the Company is not repaying.<sup>83</sup> Witness Sullivan testified should the Commission allow Moore to recover interest expense, interest synchronization<sup>84</sup> should be used to calculate an allowable interest expense. Using the rate base calculated by ORS of \$177,799 with a hypothetical 50% debt and 50% equity capital structure, and Moore's proposed 3.0% interest rate as the weighted average cost of debt, Moore's synchronized interest expense would be \$2,667.<sup>85,86</sup>

ORS witness Sandonato also pre-filed surrebuttal testimony in which he responded to the rebuttal testimony filed by Company witness Teichman regarding Moore's proposed tariff

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<sup>81</sup> Hearing Exhibit 7, DFS-3.

<sup>82</sup> Sullivan Surrebuttal, p. 4, l. 22 – p. 5, l. 5.

<sup>83</sup> Sullivan Surrebuttal, p. 5, ll. 9-21.

<sup>84</sup> ORS recommends the use of interest synchronization as the Commission has approved the use of interest synchronization in previous water and sewer proceedings and interest synchronization prevents a utility from recovering from rate payers interest on funds borrowed for reasons other than financing rate base related costs. See Sullivan Surrebuttal, p. 6, l. 13 – p. 7, l. 11.

<sup>85</sup> Sullivan Surrebuttal, p. 6, ll. 4-10, *see also* Hearing Exhibit 7, DFS-4.

<sup>86</sup> With the additional rate case expenses accepted by ORS, the synchronized interest would be \$2,669.

language and ORS's recommendation regarding rates.<sup>87</sup> Witness Sandonato testified that ORS agrees with Moore's position to clarify the non-recurring charges on the Company's tariff.<sup>88</sup> Witness Sandonato testified that ORS disagreed with the Company's proposed rate of \$37.98<sup>89</sup> as no support was provided to justify the requested rate. Additionally, if the Company's proposed rate was implemented, along with ORS's recommended adjustments to revenue and expenses, the Company's operating margin would be 29.93%.<sup>90</sup> ORS recommends a rate of \$27.16 based on ORS's review of the Company's books and records. Witness Sandonato testified ORS's proposed rate will generate additional revenues that will allow Moore to sufficiently recover its operating costs, preserve Moore's financial integrity, and allow Moore to attract capital for future investments. Additionally, this proposed rate of \$27.16 will allow Moore to provide safe, reliable, and quality service to its customers at a reasonable rate. Witness Sandonato testified the ORS proposed rate will provide a prudent balance between the consumer's need for affordable, quality service and Moore's financial health.<sup>91</sup>

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **A. BACKGROUND**

Moore is a public utility, as defined by S.C. Code Ann. § 58-5-10(3), providing sewer collection services to residential customers in Spartanburg County, South Carolina.<sup>92</sup> Moore's operations are classified by NARUC as a Class C wastewater utility according to wastewater

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<sup>87</sup> Sandonato Surrebuttal, p. 1, l. 20 – p. 2, l. 3.

<sup>88</sup> Sandonato Surrebuttal, p. 2, ll. 6-11.

<sup>89</sup> Witness Teichman corrected this amount to \$40.07 on the stand due to an error in calculation, Witness Sandonato's calculations use the amount filed in Witness Teichman's Surrebuttal Testimony of \$37.98.

<sup>90</sup> Sandonato Surrebuttal, p. 2, ll. 17-20.

<sup>91</sup> Sandonato Surrebuttal, p. 3, ll. 1-13.

<sup>92</sup> Application, p. 1.

revenues reported in its Application for the twelve (12) months ending December 31, 2016 (“Test Year”).<sup>93</sup> According to data provided by Moore, the Company provides wastewater collection and treatment services to 469 residential customers.<sup>94</sup>

## **B. MOORE’S APPLICATION**

The Commission accepted Moore’s Application for filing on December 20, 2017.<sup>95</sup> The Commission approved service area for Moore is in Spartanburg County.<sup>96</sup> The current rate schedule for Moore was approved by Commission Order No. 2003-477 issued in Docket No. 2003-41-S.<sup>97</sup>

In its Application Moore proposed changes to its current tariff including a monthly base sewer charge of \$45.00; a non-recurring charge of \$250 for a Customer Deposit to cover three months billing; a new customer set-up fee of \$20.00; a new customer connection fee of \$35.00; a notification of disconnection fee of \$25.00<sup>98</sup>; and a reconnection fee of \$250.<sup>99</sup>

Per the Company’s Application, Moore requested a \$133,142 increase.<sup>100</sup> Per ORS, the Company’s proposed rates will result in an increase in Total Operating Revenues, recalculated

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<sup>93</sup> Sandonato Direct, p. 3, ll. 12-15.

<sup>94</sup> Sandonato Direct, p. 3, ll. 15-16.

<sup>95</sup> See Application.

<sup>96</sup> Sandonato Direct, p. 4, l. 16-17.

<sup>97</sup> Application, p. 1.

<sup>98</sup> Witness Teichman acknowledged that this amount was not properly noticed, so the disconnect fee will remain at the current charge of \$18.00. See Revised Exhibit A filed January 24, 2018.

<sup>99</sup> See Application, Exhibit A.

<sup>100</sup> See Application, Exhibit B.

by ORS witness Sandonato and shown on ORS witness Sullivan's Audit Exhibit DFS-1 of \$136,676.<sup>101</sup> The proposed rates and charges were attached as Exhibit A to the Application.

### **C. RATE MAKING METHODOLOGY AND JURISDICTION**

Generally, the Commission has wide latitude to determine an appropriate rate-setting methodology. *Heater of Seabrook, Inc. v. Public Service Comm'n*, 324 S.C. 56, 478 S.E.2d 826 (1996). In the present case, Moore has chosen to request that the Commission determine the reasonableness of its proposed rates using the operating margin methodology. There was no evidence presented by any party supporting the use of any other ratemaking methodology. Accordingly, the Commission will utilize the operating margin methodology in setting Moore's rates in this case.

Pursuant to S.C. Code Ann. § 58-3-140(A) the Commission has the "power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards...."

The Company is a public utility subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §§ 58-3-140(A) and 58-5-210 (2015). The Commission requires the use of an historic twelve-month test period under S.C. Code Ann. Regs. 103-823.A(3) (2012). These findings of fact and conclusions of law are informational, procedural and jurisdictional in nature and are not contested by any party of record in this proceeding.

### **D. TEST YEAR**

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<sup>101</sup> *Id.*

The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, revenues, and expenses in the near future when the prescribed rates are in effect.<sup>102</sup> The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments.<sup>103</sup> Moore's financial statements in this case used a test year ending December 31, 2016. ORS utilized the same test year in conducting its examination. Given that no other test year was proposed, the test year ending December 31, 2016, is appropriate and will be used in this case.

#### **E. ADJUSTMENTS TO REVENUES**

Moore reported per book test-year revenues of \$115,258 in its Application. ORS calculated Moore's total operating revenues as \$145,386 after accounting and the pro forma adjustments to operating revenue.<sup>104</sup>

Moore did not oppose ORS's adjustments to revenues. Therefore, this Commission finds that Moore's total operating revenues for the Test Year are \$145,386.

#### **F. ADJUSTMENTS TO EXPENSES**

ORS recommended adjustments to various operating expenses with Moore only objecting to ORS's adjustments to rent expense and interest expense.

Moore proposed to include rate case expenses incurred in this rate case, which ORS has accepted as appropriate, amortized over five years. Moore further proposed that additional rate case expenses incurred through the date of the hearing in this matter be included, subject to

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<sup>102</sup> *Porter v. South Carolina Pub. Serv. Comm'n*, 328 S.C. 222, 493 S.E.2d 92 (1997).

<sup>103</sup> *Id.*

<sup>104</sup> Hearing Exhibit 6, DFS-1.

ORS's review of the requested additional amount and examination of supporting documentation. ORS has now advised the Commission that it received and reviewed the documentation supporting the additional rate case expenses requested by Moore and agrees with the inclusion of \$4,897 in additional rate case expenses. Because the additional rate case expenses are known and measurable, the Commission will allow them to be included in the total rate case expense and amortized over five years. We find the Company is entitled to \$30,659 total rate case expenses, including the additional \$4,897 in rate case expenses ORS verified after testimony was filed. The approved amount of \$30,659 is to be amortized over five years resulting in a rate case expense adjustment of \$6,132.

The net result of the Commission's conclusions regarding the Company's expenses results in Moore's allowable total operating expenses for the test year (after pro forma and accounting adjustments) being \$146,086. The Commission agrees these expenses are just and reasonable.

#### **G. RENT EXPENSE**

ORS recommends that the rent expense should be calculated based on the square footage of the Teichman's home actually utilized by Moore in its business operations multiplied by the average rental price per square foot of comparable office spaces in the Moore/Spartanburg area. Witness Sullivan testified that the average was taken from six (6) office spaces available for rent in close proximity to the Teichman's residence, which is used as the business office for the Company. The comparable rentals provided by ORS represented a range of reasonable rental rates.

This Commission finds that it is just and reasonable to calculate the rent expense based on the actual square footage used by the Company, multiplied by the average price per square foot for comparable rentals in the area. Therefore, this Commission agrees with ORS's position to calculate rent expense using an average price per square foot of \$1.22, monthly rental expense of \$310, and yearly rent expense for \$3,720.

#### **H. ACCUMULATED DEFERRED INCOME TAXES**

ORS testified the Company is not in compliance with the NARUC USOA and 26 U.S. Code § 168 (i)(9) as the Company has not recorded Accumulated Deferred Income Taxes. ORS recommended the Company should establish ADIT and revalue the ADIT to account for the new 21% federal income tax rate.

This Commission finds ORS's recommendation to be just and reasonable, as it would bring the Company into compliance.

#### **I. TAX CUTS AND JOBS ACT**

Regarding the effect of the Tax Cuts and Jobs Act, ORS made recommended certain adjustments to incorporate the impacts of the Act. ORS recommended the Company add tariff language to allow for a tax multiplier associated with tap fees and other CIAC. This recommendation does not change a rate applicable to any current customer and would not generate operating review, but only passes through to future customers or developers.

ORS recommended the Company place the \$1,295 in additional revenue collected due to the tax change into a regulatory asset and amortize this amount over five (5) years to coincide with the timing related to the proposed amortization schedules for rate case expenses.

ORS also recommended the Company should establish ADIT and revalue the ADIT to account for the new 21% federal income tax rate.

This Commission finds that ORS's recommendations related to the Act are just and reasonable, therefore this Commission agrees with ORS's recommendations.

#### **J. INTEREST EXPENSE**

ORS takes the position the Company should not receive recovery of an expense from rate payers that the Company did not pay for, nor should the Company recover interest expense from rate payers for loans the Company is not repaying. Witness Teichman acknowledges that the Company has failed to make any payments on the \$603,819 the Company has in notes payable.

This Commission finds that it would be unjust and unreasonable for Moore's customers to pay for an expense Moore itself has not paid for, and it would be unjust and unreasonable for Moore's customers to pay for interest expense on loans that Moore is not repaying. Therefore, this Commission agrees with ORS's position and no recovery of interest expense is granted.

#### **K. BASE SEWER MONTHLY RATE**

ORS recommends the Company charge a flat rate for sewer-collection only service of \$27.16. This rate was calculated based on the revenues and expenses provided by the Company, as adjusted by ORS. ORS testified that this rate will provide a prudent balance between the customer's need for affordable, quality service and Moore's financial health.

This Commission finds that ORS's proposed rate of \$27.16 is just and reasonable. This Commission further finds that this proposed rate serves the public interest, balances the concerns of the using public while preserving the financial integrity of the Company, and promotes



economic development within the State of South Carolina. Therefore, this Commission agrees with ORS's proposed flat rate of \$27.16 per month.

**L. TOTAL INCOME FOR RETURN<sup>105</sup>**

Based upon the above determinations concerning the accounting and *pro forma* adjustments, and Moore's revenues and expenses, the as adjusted total income for return is (\$700), calculated as follows:

Operating Revenues	\$145,386
Operating Expenses	<u>\$146,086</u>
Net Operating Income	(\$700)
Customer Growth	\$0
Total Income for Return (Before Interest)	<u>(\$700)</u>

**M. OPERATING MARGIN**

Based upon Moore's gross revenues for the test year, after accounting and *pro forma* adjustments under the presently approved rate schedules, Moore's operating margin is as follows:

**OPERATING MARGIN BEFORE RATE INCREASE**

Operating Revenues	\$145,386
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<sup>105</sup> **Exhibit 1** attached to this Order reflects the Operating Experience, Operating Margin and Rate Base at ORS Proposed Rates.

Operating Expenses	<u>\$146,086</u>
Net Operating Income	(\$700)
Add: Customer Growth	\$0
Less: Interest Expense	<u>\$0</u>
Total Income for Return	<u>(\$700)</u>
Operating Margin (After Interest Expense of \$0)	(0.48%)

The Commission determines that Moore should have the opportunity to earn an additional \$36,308 in annual operating revenues, which results in an operating margin of 14.58%. The operating margin is calculated as follows:

**OPERATING MARGIN AFTER RATE INCREASE**

Operating Revenues	\$181,694
Operating Expenses	<u>\$155,603</u>
Net Operating Income	\$26,091
Add: Customer Growth	\$395
Less: Interest Expense	<u>\$0</u>
Total Income for Return	<u>\$26,486</u>

Operating Margin (After Interest Expense of \$0) 14.58%

The Commission concludes that an increase in rates is necessary and warranted. Moore's operating expenses have increased since the Company's last rate case in 2003. The proposed rate increase is designed to generate additional revenues that will allow Moore to recover its operating costs, preserve its financial integrity, and to increase its earnings to a more reasonable level through fair charges to the consumer.

#### **N. APPROVED RATES**

In accordance with the above finding conclusions, the Application of the Company and the testimony in the record of this case, the Commission approves the rates and charges contained in the attached **Exhibit 2**.

#### **IV. CONCLUSION**

Based upon the above considerations and reasoning, the Commission hereby approves the rates and charges as stated in this Order and attached hereto as Exhibit 2 as being just and reasonable.

#### **IT IS THEREFORE ORDERED THAT:**

1. The rates and charges attached on Exhibit 2 are approved for service rendered on or after July 1, 2018, and this rate schedule is hereby deemed to be filed with the Commission pursuant to S.C. Code Ann § 58-5-240 (2015).
2. The additional annual revenues the Company is entitled to earn produces an operating margin of 14.58%.

3. Should the approved schedule not be placed into effect before three months after the effective date of this Order, then the approved schedule shall not be charged without written permission of the Commission.
4. A test year ending December 31, 2016, is appropriate in this case.
5. The Company shall include language in its tariff to allow for a tax multiplier associated with tap fees and other CIAC.
6. To correspond with benefits resulting from the Tax Cuts and Jobs Act, Moore shall place \$1,295 into a regulatory asset account and amortize that amount over five (5) years.
7. Moore shall maintain its books and records for its operations in accordance with the NARUC Uniform System of Accounts for Class C utilities, as adopted by the Commission.
8. Moore shall properly book ADIT.
9. Moore shall maintain a performance bond in the amount of \$135,000 for its wastewater operations.
10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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Swain Whitfield, Chairman

ATTEST:

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Randy Randall, Vice-Chairman